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page]

PALO ALTO NETWORKS, INC.,)	Case No. 3:19-cv-02471-WHO
)	
Plaintiff and Counter-Defendant,)	Assigned to: Hon. William H. Orrick
)	
v.)	JOINT STATUS REPORT
)	
PACKET INTELLIGENCE LLC,)	
)	
Defendant and Counterclaimant.)	

PACKET INTELLIGENCE LLC,)	Case No. 3:19-cv-04741-WHO
)	
Plaintiff,)	Assigned to: Hon. William H. Orrick
)	
v.)	JOINT STATUS REPORT
)	
Juniper Networks, Inc.,)	
)	
Defendant.)	

Pursuant to the Court’s September 29, 2023 Order Requiring Status Report (Dkt. 98 in the *Palo Alto Networks* case and Dkt. 90 in the *Juniper* case),¹ Plaintiff and Counter-Defendant Palo Alto Networks, Inc. (“Palo Alto Networks”), Defendant Juniper Networks, Inc. (“Juniper”), and Plaintiff, Defendant, and Counterclaimant Packet Intelligence LLC (“Packet”) (collectively, the “Parties”), provide this Joint Status Report regarding the status of the related *inter partes* review

¹ Case No. 3:19-cv-02471-WHO will be referred to as “the *Palo Alto Networks* case” and case No. 3:19-cv-04741 will be referred to as “the *Juniper* case.”

1 (“IPR”) and *ex parte* reexamination (“EPR”) proceedings in the *Palo Alto Networks* and *Juniper*
2 cases.²

3 On September 14, 2022, the Parties filed a Joint Status Report (Dkt. 97, in the *Palo Alto*
4 *Networks* case and Dkt. 87 in the *Juniper* case) (“September 2022 Joint Status Report”), explaining
5 that all claims asserted in the litigation were subject to appeals from IPRs, or subject to EPR
6 proceedings. Those IPR appeals and EPR proceedings remain ongoing. The Parties provide
7 updates on each below.

8 Updates Concerning Pending Appeals of *Inter Partes* Reviews

9 IPRs were previously instituted on four of the five patents in suit (with the fifth patent, the
10 asserted ’099 patent, being subject to EPR proceedings). The PTAB held unpatentable (i) all
11 challenged claims of the asserted ’725 and ’751 patents, (ii) all but one of the challenged claims of
12 the asserted ’646 patent (dependent claim 3), and (iii) all but one of the challenged claims of the
13 asserted ’789 patent (dependent claim 34). Packet appealed and Palo Alto Networks and Juniper
14 cross-appealed.

15 Since the September 2022 Joint Status Report, the Parties have completed briefing in the
16 consolidated appeals of the IPRs at the Federal Circuit and await the scheduling of oral argument.
17 The Parties expect oral argument to occur in late 2023 or early 2024.

18 Updates Concerning Pending *Ex Parte* Reexaminations

19 Since the September 2022 Joint Status Report, on November 18, 2022, the USPTO issued a
20 final office action rejecting ’646 claim 3 as being unpatentable for non-statutory obviousness-type
21 double patenting. On March 17, 2023, Packet filed a Notice of Appeal to the PTAB and on May
22 17, 2023, filed its Appeal Brief. The PTAB will hear oral argument in the appeal on November 16,
23 2023.

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25
26
27 ² There are five patents in both cases: U.S. Pat. Nos. 6,651,099 (“’099 patent”), 6,665,725 (“’725
28 patent”), 6,771,646 (“’646 patent”), 6,839,751 (“’751 patent”), and 6,954,789 (“’789 patent”).

With respect to the two EPR proceedings concerning the asserted claims of the '099 patent, since the September 2022 Joint Status Report, on August 24, 2023, the USPTO issued a non-final office action in the two merged EPR proceedings, rejecting claims 1, 2, 4, and 5 as being unpatentable for non-statutory obviousness-type double patenting, and also rejecting claims 1, 2, and 4 as being obvious over the prior art. Packet's response to the office action is due on November 24, 2023.

* * *

In summary, all claims asserted in the litigation remain subject to ongoing appeals from IPRs and/or ongoing EPR proceedings (or appeals therefrom) at the USPTO.

Dated: October 13, 2023

By: /s/ Andrew T. Radsch

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ATTESTATION

I am the ECF user whose identification and password are being used to file this JOINT STATUS REPORT. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that all signatories to this document have concurred in this filing.

DATED: October 13, 2023

/s/ R. Allan Bullwinkel
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